IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

CRP.No. 1408 OF 2000(B)

TLB.6/90/T.B.A. DATED 20.1.2000 OF TALUK LAND BOARD, TALIPARAMBA

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REVN. PETITIONERS:

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1. KUNNATH MANIKKAM, PERUNTHATTA, THAVIDISSERRY, KANNUR DISTRICT.

2. KUNNATH BINDU, D/O. LATE CHERUTTA KUNJAMBU, PERUNTHATTA, THAVIDISSERY, KANNUR DISTRICT.

3. KUNNATH BEENA, D/O. LATE CHERUTTA KUNJAMBU, PERUNTHATTA, THAVIDISSERY, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

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1. THE TALUK LAND BOARD, TALIPARAMBA.

2. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, TRIVANDRUM.

GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA.

`THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P. NO. 1408/2000

ORDER ON CMP NO. 2862/2000 IN C.R.P. 1408/2000

// DISMISSED //

20TH FEBRUARY, 2007.

SD/-
P.R. RAMAN, JUDGE.

// TRUE COPY //

P.S. TO JUDGE.

knc/-

P.R. RAMAN, J.

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C.R.P. NO. 1408 OF 2000

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DATED THIS, THE 20TH DAY OF FEBRUARY, 2007

O R D E R

Petitioners are the legal heirs of one Cherutta Kunjambu, who was the declarant in Ceiling Case No. T.L.B./6/90 on the file of the Taluk Land Board, Taliparamba. The proceedings were completed and the excess land was ordered to be surrendered, which was subject matter of challenge before this Court in C.R.P. No. 2480/1994, filed by the said declarant. The proceedings were found to be ex parte. During the pendency of the revision petition, Kunjambu died and his legal representatives were impleaded as additional respondents 4 to 6. Another daughter of the declarant, Geetha, was impleaded as additional second revision petitioner. This Court did not agree with the contention of the declarant that he had no valid notice about the proceedings and he was kept in the dark . However, since the declarant died during the pendency of the proceedings and one of his legal representatives has already got impleaded as additional second revision petitioner and other legal heirs were impleaded as respondents, it

was thought fit and proper in the interest of justice to give an opportunity to the legal representatives to represent their case against the draft statement of the TaLuk Land Board and in that view of the matter, the order of the Taluk Land Board was set aside so as to enable the petitioners herein and also the said Geetha to raise their contentions against the draft statement.

2. Pursuant thereto, petitioners herein filed a detailed objection. Geetha has also filed another written objection before the Taluk Land Board. From the records of the Taluk Land Board which were called for by this Court, it is seen that page 229 contains the counter statement filed by the petitioners herein. It was inter alia contended therein that on the relevant date deceased Kunjambu and Manikkam were not in direct possession and enjoyment of the land shown in the draft statement and no excess land is held by Kunjambu and 4th respondent Manikkam. Except the items scheduled in the objection, all other items stated in the draft statement were in no way related to the declarant and he was not in possession and enjoyment of those items. Therefore, if those items were properly identified, it will reveal that those properties were outstanding in possession and enjoyment of third parties in respect of which petitioner has no control either as owner or in any other manner having any possessory right over the same. The schedule properties item-wise with description and

survey numbers are also given. On a rough calculation of the total extent in the schedule, Kunjambu is stated to have been holding only an extent of 9.28 acres and after his death an extent of 6.99 acres are possessed and enjoyed by his w2ife Manikkam. They have also produced documents in support of their contentions which are seen at pages 309 and 428, which includes registered documents of title, certificate of purchase issued by the Land Tribunal etc. But the Taluk Land Board, as per the impugned order, has stated that the petitioner did not produce any documents to support their contention which is contrary to the facts as stated above. Thus, the Taluk Land Board did not verify the various documents produced. On the other hand, it caused to conduct a verification through the authorized officer, who submitted a report and the decision was rendered solely based on such report and without giving a copy of such report to the petitioner. Curiously enough, in the authorised officer's report, it is remarked that the documents produced by the petitioners are of the period after 1.4.1964 and therefore, cannot be accepted as valid. Those documents were produced only to show that the declarant had ownership and possession of lesser extent of land and if as a matter of fact, the declarant was holding in his possession of more lands than the lands already covered by these documents, then he has no case that the balance extent belongs to him. Therefore, what has to

be done is to identify the actual land owned and possessed by the declarant supported by documents produced in the case, identify the same and order surrender of the balance extent after such identification. This has not been done.

3. The learned counsel appearing for the petitioner placed strong reliance on the decision of this court in **(Krishna Pillai (died) v. Taluk Land Board** (1992 KLJ 61) wherein it was held that when large extent of property is held to be owned and possessed by the declarant, the Revenue has to identify the property and demarcate the same. When part of a larger holding is directed to be surrendered, it is the duty and obligation of the Taluk Land Board to clearly identify the area which is to be surrendered, taking into account the objection of the declarant as well. This principle holds good in the present case. The total extent in Sy. No.78/1A1 is 493 acres. The declarant is stated to be in possession of more extent than what is covered by various documents produced by him. Some of the land falls in Sy. No.78/1A1 and the other properties in different survey numbers. Therefore, if the State has a case that the declarant is in possession of more extent than what he claims to be based on documents already produced, they will have to identify such excess land. If a copy of the authorized

officer's report was furnished to the petitioners, they could also have an opportunity to raise their objection to it, which is mandatory, as held by this Court in **Narayanan Chetty v. Taluk Land Board, N. Wynad (1975** KLT 822).

For the above reasons, the order of the Taluk Land Board is set aside and the matter is remanded to that authority for a fresh consideration in accordance with law.

Send back the records immediately.

P.R. RAMAN,
JUDGE.

knc/-

P.R. RAMAN, J.
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C.R.P. NO. 1408 OF 2000

O R D E R

20th FEBRUARY, 2007.